

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

e-IMAGE DATA CORPORATION,

Plaintiff,

v.

Case No. 10-C-0764

EVIS R. BEATON,
DOCUMENT IMAGING SUPPLY CO.,
MICROFILMSHOP.COM, INC.,

Defendants.

ORDER FOR FINAL JUDGMENT

Upon consideration of plaintiff's Motion for Sanctions, plaintiff's memorandum in support of its motion, declarations and attachments thereto, and oral arguments presented at today's hearing, the court finds as follows:

1. On February 10, 2011, plaintiff served Microfilmshop.com, Inc., with discovery requests.
2. Microfilmshop.com, Inc., failed to timely respond to the discovery requests and plaintiff filed a motion to compel production.
3. On May 31, 2011, this court ordered Microfilmshop.com, Inc., to "respond fully to all plaintiff's discovery requests to date by producing documents and information within the care, custody or control of it's employee's, officers or agents, including Evis R. Beaton (Beaton), within five calendar days." (Doc. No. 50.)
4. Microfilmshop.com, Inc., has failed to comply with the court's order.

5. On Tuesday, October 18, 2011, this court sent notice of the hearing on plaintiff's Motion for Sanctions.
6. On Thursday, November 10, 2011, this court's staff spoke with Beaton and communicated the request that he participate in the motion hearing telephonically.
7. Beaton refused to participate in the November 15, 2011, hearing before the court. For these reasons,

IT IS ORDERED, ADJUDGED AND DECREED:

1. Pursuant to Rule 37(b)(2)(I), Fed. R. Civ. P., that the following facts are taken as established for purposes of this action:
 - (a) The average number of plaintiff's ScanPro (all models) units sold by Defendants while operating as a reseller of Plaintiff's products in calendar years 2003-2007 was 48 units.
 - (b) That plaintiff's net profit on 48 ScanPro 2000 in 2010 units through a reseller is \$172,719.12.
 - (c) The plaintiff's lost profits as a result of Microfilmshop.com's misconduct from January 2010 until February 2011 is \$187,112.38.

IT IS FURTHER ORDERED,

2. Pursuant to Rule 37(b)(2)(vii), Fed. R. Civ. P., that Microfilmshop.com and its president, Beaton are in civil contempt.

IT IS FURTHER ORDERED,

3. As a result of Beaton's willful failure to comply with the court's orders and willful obstruction of justice, including but not limited to failure to defend this action by participating in the hearing in this matter on November 15, 2011, and pursuant to Rule

37(b)(2)(iii) and 37(b)(2)(vi), Fed. R. Civ. P., that the Answer of Beaton in this matter is stricken and that default judgment is granted to plaintiff, e-ImageData Corp., as against Beaton.

IT IS FURTHER ORDERED,

4. Defendants Microfilmshop.com, Inc., and Beaton are jointly and severally liable to the plaintiff e-ImageData Corp. in the amount of \$187,112.38 in damages, \$87,886.00 in attorneys' fees and \$3,459.04 in costs for a total judgment in the amount of \$278,457.42.

IT IS FURTHER ORDERED,

5. The Clerk of Court shall enter final judgment in favor of plaintiff e-ImageData Corp. as against Beaton and Microfilmshop.com, Inc., jointly and severally, in the total amount of \$278,457.42.

IT IS FURTHER ORDERED,

6. (a) Microfilmshop.com, Inc., or any entity associated with or on behalf of Microfilmshop.com, Inc., is permanently enjoined and restrained, directly or indirectly, and whether alone or in concert with others, from using the SCANPRO trademark, e-ImageData's trade name or any mark that is confusingly similar to either the SCANPRO mark or the e-ImageData trade name, including, but not limited to, reference to the SCANPRO trademark on Microfilmshop.com, Inc.'s website www.microfilmshop.com or any additional website created by Microfilmshop.com, Inc., in the future, and all keywords purchased by Microfilmshop.com, Inc., relating to the SCANPRO mark or e-ImageData.

(b) Evis R. Beaton, or any entity associated with or on behalf of Beaton, is permanently enjoined and restrained, directly or indirectly, and whether alone

or in concert with others, from using the SCANPRO trademark, e-ImageData's trade name or any mark that is confusingly similar to either the SCANPRO mark or the e-ImageData trade name, including, but not limited to, reference to the SCANPRO trademark on website www.microfilmshop.com or any website created by Evis R. Beaton, or any entity associated with him, in the future, and all keywords purchased by Evis R. Beaton relating to the SCANPRO mark or e-ImageData.

Dated at Milwaukee, Wisconsin, this 15th day of November, 2011.

BY THE COURT

/s/ C. N. Clevert, Jr.

C. N. CLEVERT, JR.

CHIEF U. S. DISTRICT JUDGE